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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,028	10/22/2003	James Russell Curtis	200314220-1	5010

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

DAO, THUY CHAN

ART UNIT	PAPER NUMBER
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2192

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/691,028	Applicant(s) CURTIS ET AL.	
	Examiner Thuy Dao	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the application filed on January 24, 2007.
2. Claims 1, 3-6, and 8-10 have been examined.

Response to Amendments

3. Per Applicants' request, claims 1, 6, and 8 have been amended and claims 2 and 7 have been canceled.
4. The objection to the title and specification is withdrawn in view of Applicants' amendments.
5. The 35 USC §112, second paragraph rejection over claims 2 and 7 is withdrawn in view of Applicants' amendments.

Response to Arguments

6. The Applicants are thanked for a thorough reply. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Objection

7. Claim 3 is objected to because of minor informalities: in line 1, the phrase is considered to read as - -A method as recited in Claim [[2]] 3 wherein ...- -.

Appropriate correction is required.

Claim Rejections – 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication No. 2004/0133445 A1 to Rajan et al. (art made of record, hereinafter "Rajan") in view of Meyer (art of record, US Patent No. 7,016,944).

Claim 1:

Rajan discloses *a method comprising:*

launching an application; tracking usage of said application so as to generate usage data; accessing an update site; transferring said usage data to said update site (e.g., page 2, [0018]; page 15, [0160]; page 9, [0098]; page 12, [0135]);
prioritizing updates at least in part as a function of said usage data; and
said updates as prioritized in said prioritizing step (e.g., page 15, [0160-0161]).

Rajan does not explicitly disclose *presenting to a user a list of said updates.*

However, in an analogous art, Meyer further discloses *presenting to a user a list of said updates* (e.g., FIGs. 5-7, col.6: 12 – col.7: 32).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Meyer into that of Rajan. One would have been motivated to do so to alert the user to the presence of any upgrades available for computer information on the user's computer and allow the user to determine which of the available upgrades will be downloaded to the user's computer and installed as suggested by Meyer (e.g., col.2: 42 – col.3: 10).

Claim 3:

The rejection of claim 1 is incorporated. Meyer further discloses *said user selects one or more of said updates for said application* (e.g., FIGs. 5-7, col.6: 12 – col.7: 32).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Meyer into that of Rajan. One would have been motivated to do so as set forth above.

Claim 4:

The rejection of claim 3 is incorporated. Rajan also discloses *said selected ones of said updates are installed so as to modify said application* (e.g., page 15, [0160]).

Claim 5:

The rejection of claim 1 is incorporated. Rajan also discloses *further development of said application is directed in part as a function of said usage data* (e.g., page 2, [0018]; page 9, [0098]; page 12, [0135]).

Claim 6:

Rajan discloses a software program set on computer readable media, said software program set comprising:

a usage data evaluator for evaluating raw usage data :received from a user computer system regarding a version of a software application installed thereon, said usage data evaluator providing evaluated usage data (e.g., page 2, [0018]; page 9, [0098]; page 12, [0135]; page 13, [0140]);

an update prioritizer for prioritizing updates available for said version at least in part as a function of said evaluated usage data; a web interface and a list of said updates as prioritized by said prioritizer (e.g., page 15, [0160-0161]).

Rajan does not explicitly disclose *presenting to a user a list of said updates*.

However, in an analogous art, Meyer further disclose *presenting to a user a list of said updates* (e.g., FIGs. 5-7, col.6: 12 – col.7: 32)

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Meyer into that of Rajan. One would have been motivated to do so to alert the user to the presence of any upgrades available for computer information on the user's computer and allow the user to determine which of the available upgrades with be downloaded to the user's computer and installed as suggested by Meyer (e.g., col.2: 42 – col.3: 10).

Claim 8:

The rejection of claim 6 is incorporated. Meyer further discloses *said web interface specifies, for at least some of said updates, advantages over said version of said application* (e.g., FIGs. 5-7, col.6: 12 – col.7: 32).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Meyer into that of Rajan. One would have been motivated to do so as set forth above.

Claim 9:

The rejection of claim 6 is incorporated. Rajan also discloses *a usage-tracking module installed on said user computer system* (e.g., page 2, [0018]; page 9, [0098]; page 12, [0135]).

Claim 10:

The rejection of claim 9 is incorporated. Rajan also discloses *said usage-tracking module is integrated with said version of said application* (e.g., page 2, [0012]; page 5, [0046]).

Conclusion

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

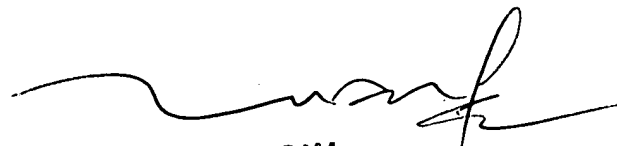
Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN DAM
SUPERVISORY PATENT EXAMINER